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Attorneys for Plaintiff  
 City and County of San Francisco

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 SAN FRANCISCO DIVISION

CITY AND COUNTY OF SAN FRANCISCO, )  
 A California Municipal Corporation, )  
 )  
 Plaintiff, )  
 vs. )  
 )  
 FACTORY MUTUAL INSURANCE )  
 COMPANY, a Rhode Island Corporation; )  
 BOMBARDIER TRANSPORTATION )  
 (HOLDINGS) USA, INC., a Delaware )  
 Corporation, )  
 )  
 Defendants. )  
 )  
 )

Case No. C 04-5307 PJH

**FURTHER JOINT CASE STATUS  
 STATEMENT**

**March 15, 2007**  
**2:30 p.m.**  
 Hon. P. Hamilton  
 Dept 17

LAW OFFICES  
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CITY AND COUNTY OF SAN FRANCISCO, BOMBARDIER TRANSPORTATION (HOLDINGS) USA, INC and FACTORY MUTUAL INSURANCE COMPANY, as requested by the Court, provide this Further Joint Case Status Statement, **requesting that the Court Order a 30-day continuation of Case Status Conference currently set for March 15, 2007**, to allow the parties to meet and confer on case management issues and present a proposed Case Management Order.

**1. Mediation Efforts:**

The parties held a mediation on March 8, 2007 as ordered by the Court. John Bates of JAMS was the mediator. Prior to the Mediation, the parties held several joint conferences and focused discovery efforts toward issues central to forwarding the mediation. The parties cooperatively undertook further document productions, written discovery, and depositions in an effort to establish facts that would be particularly helpful to settlement discussions. The parties also exchanged detailed mediation briefs and additional correspondence between the parties, setting out their various positions on the issues, to establish the items of dispute and negotiation for both the parties and the mediator. The parties prepared and gathered their client/decision teams and attended the mediation. In Bombardier's case, client representatives traveled from Pittsburgh, Pennsylvania to attend the mediation.

The Mediation continued until approximately 11:00 p.m. in the evening, with the parties continuing to discuss the potential for further settlement in the following days with the active involvement of the mediator. The parties are all committed to continuing settlement discussions, but believe that a course of setting trial, continuing open discovery, and proceeding on a scheduled path of litigation is required as set forth in the Case Management Proposal, below, and the attached Proposed Case Management Order, attached.

**2. Case Management Proposal:**

Due to the extensive and time-consuming preparation and mediation efforts, which the parties hoped would fully resolve the litigation, the parties have been unable to meet and confer and present a Joint Case Management Statement that addresses all of the issues required for the comprehensive scheduling and trial setting order that the parties propose be entered. The parties

1 have met and conferred on Case Management and believe that a continuance of the Case  
 2 Management Conference should be provided, to allow the parties to undertake this effort.

3 Consequently, the parties jointly propose that this honorable Court order a **continuance of**  
 4 **the Case Management Conference currently set for March 15, 2007, for approximately 30**  
 5 **days**, to allow the parties to meet, confer and present, at least 10 days before the scheduled  
 6 conference, a comprehensive Joint Case Management Conference Statement, (supplemented by  
 7 separate statements, if necessary) addressing all of the appropriate issues as identified in Federal  
 8 Rule of Civil Procedure 16, and Civil Local Rule 16-9 and 16-10, and presenting a Proposed Case  
 9 Management and Scheduling Order.

10  
 11 DATED: March 12, 2007

WULFSBERG REESE COLVIG & FIRSTMAN  
 PROFESSIONAL CORPORATION

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 13  
 14 /S/

KRIS A. COX

Attorneys For Plaintiff

CITY AND COUNTY OF SAN FRANCISCO

15  
 16  
 17 DATED: March 12, 2007

SONNENSCHN NATH & ROSENTHAL, LLP

18  
 19 /S/

GAYLE M. ATHANACIO

Attorneys For Defendant

BOMBARDIER TRANSPORTATION (HOLDINGS)  
 USA, INC

20  
 21  
 22  
 23  
 24 DATED: March 12, 2007

FACTORY MUTUAL INSURANCE COMPANY

25  
 26 /S/

JOYCE C. WANG

Attorneys For Defendant

FACTORY MUTUAL INSURANCE COMPANY

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 A California Municipal Corporation,

Plaintiff,  
 vs.

FACTORY MUTUAL INSURANCE  
 COMPANY, a Rhode Island Corporation;  
 BOMBARDIER TRANSPORTATION  
 (HOLDINGS) USA, INC., a Delaware  
 Corporation,

Defendants.

Case No. C 04-5307 PJH

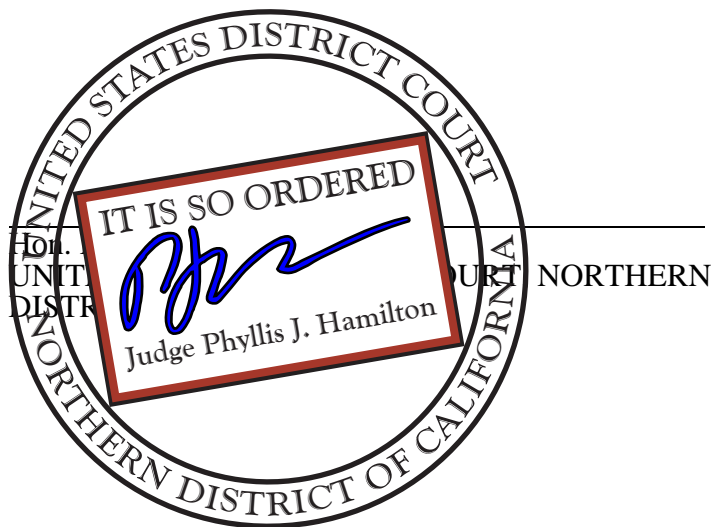
**[PROPOSED]**  
**ORDER SETTING FURTHER CASE**  
**MANAGEMENT CONFERENCE**

**March 15, 2007**  
**2:30 p.m.**  
 Hon. P. Hamilton  
 Dept 17

1 The Case Management Conference currently set for March 15, 2007 at 2:30 p.m., in Department  
 2 17 of the above-entitled Court is CONTINUED to April 12, 2007 at 2:30 p.m., in  
 3 Department 17, before the honorable Phyllis J. Hamilton.

4 The Parties are to meet and confer in good faith and present, no later than 10 days before  
 5 the continued Conference date set above, to the extent possible, a Joint Case Management  
 6 Conference Statement and a Jointly Proposed Case Management Order, addressing all applicable  
 7 issues identified under Civil Local Rule 16-10(b), and such other issues as the parties deem  
 8 appropriate, to allow the Court to set trial and a scheduling order for this matter. The parties may  
 9 present separate statements relating to issues upon which agreement has not been reached.

10  
 11 DATED: March 13, 2007



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